

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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ELEVEN CITY DINER, LLC AND )  
EHAVA HOSPITALITY, INC. )  
                                  )  
Plaintiffs,                   ) Case No.  
                                  )  
vs.                            )  
                                  )  
OHIO SECURITY INSURANCE COMPANY )  
d/b/a LIBERTY MUTUAL INSURANCE )  
                                  )  
Defendant.                    )  
                                  )  
                                  )

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**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §1332 and 28 U.S.C. §§1441 and 1446, Defendant Ohio Security Insurance Company (“Ohio Security”), by counsel, hereby files its Notice of Removal for this action to the U.S. District Court for the Northern District of Illinois, and in support thereof states as follows:

**Procedural Background**

1. On August 12, 2021, Plaintiffs Eleven City Diner, LLC and Ehava Hospitality, Inc. filed a complaint in the Circuit Court of Cook County, Illinois, Case Number 2018-L-008161, styled *Eleven City Diner, LLC and Ehava Hospitality, Inc.* “Complaint”).

2. Ohio Security was served with the Complaint on September 9, 2021.

**Removal Requirements**

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332.

4. Venue is proper in the U.S. District Court for the Northern District of Illinois pursuant to 28 U.S.C. § 1446(a), as the state court action originated in Cook County, Illinois.

5. Ohio Security was the named Defendant in the Complaint filed in Cook County, Illinois. True and legible copies of all process, pleadings, orders and other papers or exhibits filed with the state court and served in this action are attached hereto as Composite Exhibit "A", in accordance with 28 U.S.C. § 1446(a).

6. A copy of this Notice of Removal will be filed by Ohio Security with the state court where this action is pending promptly after the filing of this Notice of Removal, pursuant to 28 U.S.C. §1446(d).

7. Upon receiving a file-marked copy of this Notice of Removal, Ohio Security will serve a file-marked copy of this Notice of Removal upon counsel for Plaintiffs.

**Removal is Timely**

8. A notice of removal is timely filed when it is filed within 30 days after receipt by the defendant of an initial pleading or if insufficient facts are pled in the complaint to establish diversity jurisdiction, then within 30 days after receipt by the defendant of a copy of an amended pleading, motion, order, or other paper from which it may first be ascertained that the case is one which is or has become removable. 28 U.S.C.A. § 1446(b)(1); (b)(3).

9. The Complaint identifies Ehava Hospitality, Inc. ("Ehava") as one of the plaintiffs. Ehava is an Illinois corporation with its principal place of business in Illinois. (Complaint, ¶ 3.)

10. The Complaint also identifies Eleven City Diner, LLC as a Plaintiff. However, the Complaint did not identify the members of Eleven City Diner, LLC or the citizenship of any of its members. See *Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998) (“citizenship of an LLC for purposes of the diversity jurisdiction is the citizenship of its members”). Since the Complaint did not allege sufficient facts to establish diversity jurisdiction, the 30 days for filing a notice of removal did not begin on Ohio Security’s receipt of the initial pleading.

11. Accordingly, counsel for Ohio Security contacted counsel for Plaintiffs asking for the identification of the members Eleven City Diner, LLC, in particular, requesting the citizenship of the members. On October 8, 2021, counsel for Plaintiffs confirmed that the members were citizens of Illinois, Florida, and California. (A copy of the emails is attached as Exhibit B.) Based upon the representations of Plaintiffs’ counsel, complete diversity of citizenship exists Plaintiffs and Defendant. October 8, 2021, then, was the date that Ohio received “other paper” sufficient to ascertain that the Complaint was removable.

12. Pursuant to 28 U.S.C. §1446(b)(3), the time for filing the notice of removal commenced October 8, 2021, and Notice of Removal is due thirty days from October 8, 2021, or November 7, 2021. Thus, this Notice of Removal is timely.

**Amount-In-Controversy**

13. The amount in controversy is in excess of this Court’s jurisdictional minimum of \$75,000, exclusive of interest and costs. See Complaint, ¶¶ 1, 42, 47.

**Diversity of Citizenship**

14. Complete diversity of citizenship exists between Plaintiffs and Ohio Security.

15. Ehava is citizen of the State of Illinois for purposes of diversity.
16. Eleven City Diner, LLC is a citizen of the States of Illinois, Florida, and California for purposes of diversity.
17. Ohio Security is incorporated in the State of New Hampshire with its principal place of business in Massachusetts. Accordingly, Ohio Security is a citizen of New Hampshire and Massachusetts for purposes of diversity.
18. Ohio Security issued the insurance policy at issue in this case. Ohio Security does not, as Plaintiffs allege, do business as Liberty Mutual Insurance. In any event, Liberty Mutual Insurance Company is incorporated in the State of Massachusetts with its principal place of business in Massachusetts. Accordingly, Liberty Mutual is a citizen of Massachusetts for the purposes of diversity.

**Conclusion**

19. This Court has subject matter over the current case as a matter of diversity jurisdiction. This Notice of Removal is timely filed. The amount in controversy exceeds \$75,000.00. There is complete diversity of citizenship in this action.

WHEREFORE, Defendant Ohio Security Insurance Company prays that the above-entitled cause, currently pending in the Circuit Court of Cook County, Illinois, Case Number 2021-L-008161 be removed to the United States District Court for the Northern District of Illinois, and that this cause proceed in this Court as an action properly so removed.

Dated: October 15, 2021

By:

/s/ K. Clark Schirle

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 15, 2021, a copy of the foregoing is being served on all counsel of record identified below via U.S. Mail and via Electronic Mail.

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*/s/ K. Clark Schirle*

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